been a U.S. citizen gave up this citizenship and became a nonresident alien, no tax was imposed with respect to his estate to the extent the property was situated outside of the United States.

Explanation of provision.—The act adds a new section to the code which imposes the regular U.S. estate tax rates on the U.S. estate of a nonresident alien dying within 10 years after losing U.S. citizenship if one of the principal purposes of the loss of citizenship was the avoidance of U.S. income, estate, or gift taxes. This provision is not to apply to those who lost their citizenship on or before March 8, 1965. It also does not apply in the case of decedents dying on or before November 13, 1966.

In determining the value of the gross estate of such an expatriate (as in the case of nonresident aliens generally) only property situated in the United States that was owned by him at the time of his death is included. However, the U.S. estate tax base of these expatriate decedents is expanded in certain respects to prevent him from avoiding U.S. tax on his estate by transferring assets with a U.S. situs to a foreign corporation in exchange for its stock. Such a transfer by a nonresident alien would reduce the portion of his gross estate having a U.S. situs, since the stock of a foreign corporation has a foreign situs even though the assets of the foreign corporation are situated in the United States. The new provision specifies, if certain stock ownership tests are met, that the value of the expatriate's gross U.S. estate is to include the same proportion of the value of the stockholdings of the expatriate in the foreign corporation as its property having a U.S. situs bears to all its property.

The ownership tests that must be met for this special provision to apply are:

(i) The decedent must have owned at the time of his death 10 percent or more of the voting power of all classes of stock of the foreign corporation. Ownership for this test includes direct ownership and indirect ownership through another foreign corporation or through a foreign partnership, trust, or estate.

(ii) The decedent must have owned, at the time of his death, more than 50 percent of the total voting power of all classes of stock of the foreign corporation. Ownership for purposes of this test is ownership as described in (i) above plus ownership attributed to the expatriate under certain attribution rules of existing law (sec. 958(b) of the code). In general, these rules attribute to an individual ownership of stock held by members of his family, as well as by partnerships, trusts, estates, or corporations in which the individual has certain interests.

In addition, in determining whether the ownership tests are met, and in determining the portion of the U.S. situs property owned by the foreign corporation that must be included in computing the value of his gross estate, the expatriate is treated as owning the stock of a foreign corporation (at the time of his death) which he transferred during his life but which under U.S. estate tax law generally is not effective in excluding property from a gross estate. There transfers are:

(i) Transfers in contemplation of death (sec. 2035).
(ii) Transfers with retained life estate (sec. 2036).
(iii) Transfers taking effect at death (sec. 2037).
(iv) Revocable transfers (sec. 2038).